

## **GUIDANCE DOCUMENT FOR GENERAL PROGRAM REQUIREMENTS WYOMING STATE REVOLVING FUNDS PROGRAM**

To: State Revolving Fund (SRF) Loan Applicants/Recipients and their Engineers

From: Wyoming State Revolving Fund (SRF) Program

- Department of Environmental Quality (DEQ)
- Office of State Lands and Investments (OSLI)
- Water Development Office (WDO)
- See contact list at the end of this document, or at DEQ SRF website listed below

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This guidance assists loan applicants/recipients in complying with state and federal requirements for obtaining and using a State Revolving Fund (SRF) loan. It provides general guidance on the overall process. More detailed guidance on specific topics, and various other SRF related documents, are available at

DEQ SRF website: <http://deq.wyoming.gov/wqd/state-revolving-loan-fund/>

OSLI SRF website: <https://sites.google.com/a/wyo.gov/osli/grantsloans>.

Contact the SRF program regularly during the process to help ensure you comply with the various requirements. Contact information is at the end of this document.

The Clean and Drinking Water State Revolving Fund enabling legislation (W.S. 16-1-201 through 16-1-307) requires the Department of Environmental Quality (DEQ), the Water Development Office (WDO), and the Office of State Lands and Investments (OSLI) to review loan applicants' compliance with SRF program requirements.

Congress and EPA regularly implement new requirements or make changes to or new interpretations of existing requirements affecting SRF. It is not possible to keep our guidance documents continuously and completely up to date as these things happen and evolve over time. We appreciate your cooperation and your understanding in this regard.

### Eligible Project Types

Drinking Water SRF (DWSRF): drinking water source, treatment, transmission, storage, and distribution projects, for a public water system (as regulated by EPA)

Clean Water SRF (CWSRF): wastewater treatment facilities, sewer mains/collection systems, subsurface investigations or capping/closures at existing landfills, liners and leachate collection systems for new landfill cells, storm water facilities, septic systems, other water pollution treatment or prevention related activities

These are examples only and other similar or related projects may be eligible. Please direct your project eligibility questions to DEQ or WDO.

### Eligible Applicants

State agencies, counties, municipalities, joint powers boards, and other political subdivisions under the laws of the state (such as various types of special districts)

### Loan Terms

All SRF awards are loans. Repayment terms are currently up to 20 years or the usable life of the project, whichever is less. Interest rate is 2.5% on most loans. Payments are due annually starting within one year after the project is substantially complete. Forgiveness of a portion of the loan principal is sometimes available. Lower interest rates are sometimes available. DWSRF loans also have a 0.5% origination fee, but CWSRF loans do not. Please direct loan term questions to OSLI.

### Intended Use Plan

A project must be listed in the Intended Use Plan (IUP) in order to be eligible for funding. There is one IUP for CWSRF and another for DWSRF. The current IUPs are available on both the DEQ and OSLI websites. The IUPs are updated once annually. Requests to add a project should normally be submitted online via the "IUP Add/Update" webpage hosted by OSLI during approximately the month of February each year. Each annual IUP covers a period of approximately July through June (a state fiscal year). Please direct your IUP questions to DEQ.

### Loan Application

SRF loan application forms are available on the internet at the OSLI SRF website or directly from OSLI. OSLI will review the completeness and adequacy of the submitted loan application forms. You need to submit completed application forms at least 80 days prior to the next State Loan and Investment Board (SLIB) meeting. You must cure any defects in your application materials at least 45 days before the meeting. During the meeting, the SLIB will take administrative action approving, denying, or modifying the SRF loan. The SLIB normally considers board matters during regular meetings, which are usually held on the first Thursday of even numbered months. Please direct loan application questions to OSLI.

### Loan Repayment Source

You must dedicate a repayment source for the loan and show that it is sufficient. Example repayment sources include capital facilities tax, property tax assessments, 1% sales tax, municipal bonds, capital improvement or debt service reserve accounts, and user fees. Please direct questions on repayment source to OSLI.

### Federal Anti-Discrimination Laws

All loan applicants must comply with federal anti-discrimination laws, including the following:

- Title VI Civil Rights Act of 1964
  - Federal Water Pollution Control Act Amendments of 1972
  - Rehabilitation Act of 1973
  - The Age Discrimination Act of 1975
  - Title IX of the Education Amendments of 1972
  - Federal Actions to Environmental Justice in Minority Populations and Low-Income Populations
- During the application process, loan applicants fill out EPA Form 4700-4 (included in application forms) as a review of compliance with these laws. Please direct questions on this to OSLI.

### Environmental Review

All SRF loan projects must go through the State Environmental Review Process (SERP), which is similar to a review under the National Environmental Policy Act (NEPA). Our separate Environmental Review Guidance Document is designed to help you with the environmental review process for your project. That guidance is available on the DEQ SRF website noted above. Please direct your environmental review questions to DEQ.

### Capacity Development

All DWSRF loan applicants (not CWSRF) must demonstrate "Capacity Development" for their water system. This demonstration shows that the system receiving the loan has the technical, financial, and managerial capabilities to ensure current and ongoing successful operations. Drinking Water SRF loan applicants must complete both the capacity assessment worksheets and the financial worksheets. Worksheets are available at <http://deq.wyoming.gov/wqd/state-revolving-loan-fund/resources/capacity-development/> or by contacting DEQ directly. Please direct capacity development questions to DEQ.

### Fiscal Sustainability Plan

This is a new requirement as of 10/1/14. Most CWSRF applications (not DWSRF) submitted on or after that date must develop and implement a fiscal sustainability plan (FSP) that includes all of the following:

- an inventory of critical assets that are a part of the treatment works
- an evaluation of the condition and performance of inventoried assets or asset groupings
- a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan
- a plan for maintaining, repairing, and, as necessary, replacing the treatment works and a plan for funding such activities.

If you already have developed and implemented a plan meeting these requirements, you may not need to do a new one, but you should update it as necessary. Development of an FSP can be done as part of the engineering of the project and reimbursed under the SRF loan. You will need to have the FSP completed prior to putting your SRF project out for bids. You will need to provide to the SRF program a certification that you have completed and implemented an FSP meeting the requirements (regardless of whether you are developing a new FSP or have an existing FSP). We may require a copy of the FSP and/or other documentation as further verification that you have met the requirements. We may review the FSP when we visit the project.

Contact DEQ to discuss whether or not the FSP requirement applies to your project. The FSP requirement is expected to apply to most project types that use SRF money, but some exceptions apply. The federal statute says it applies to "treatment works proposed for repair, replacement, or expansion." Treatment works is interpreted at the federal level as encompassing more than just sewage treatment plants. For example, treatment works also generally includes sewage collection systems, storm sewer projects, and any facility that needs a WYPDES discharge permit (such as landfills with industrial storm water discharge permits). However, treatment works projects that are not "repair, replacement, or expansion" would be exempt from the FSP

requirement. Example exempt projects would be a new (not replacement) treatment plant or the addition of advanced treatment processes (that don't replace existing processes or expand treatment capacity) to an existing facility.

Contact DEQ to discuss the required extent of your FSP. The required extent is likely to vary depending on the existing facilities and the type and extent of proposed improvements. For example, we will likely not require that the FSP cover your sewage treatment plant if your project is only replacing sewage collection lines.

#### Cost and Effectiveness Analysis

This is a new requirement as of 10/1/15. CWSRF applications (not DWSRF) submitted on or after that date will need to certify the following:

(A) They have studied and evaluated the cost and effectiveness of the processes, materials, techniques, and technologies for carrying out the proposed project or activity for which SRF assistance is sought.

(B) They have selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account all of the following:

- (i) the cost of constructing the project or activity
- (ii) the cost of operating and maintaining the project or activity over the life of the project or activity
- (iii) the cost of replacing the project or activity.

This is referred to as a cost and effectiveness analysis. Performing the analysis and preparing the certification can be done as part of the preliminary engineering of the project and reimbursed under the SRF loan. You will need to submit the certification by the time you finish preliminary engineering activities and prior to moving on to final design work. Please direct your questions on the cost and effectiveness analysis to DEQ.

#### Professional Services Procurement

Some CWSRF projects will need to meet special requirements when procuring professional services such as engineering, starting after 10/1/14. Basically, the procurement process will need to be equivalent to the qualifications based process used federally under 40 USC Chapter 11, which is summarized as follows:

- Public announcement of the solicitation (such as a Request for Qualifications, or RFQ)
- Evaluation and ranking of the submitted qualifications statements based on established, publicly available criteria (identified in the RFQ). The criteria should be based on demonstrated competence and qualification for the type of professional services required, such as past performance, specialized experience, and technical competence in the type of work required.
- Discussion with at least three firms to consider anticipated concepts and compare alternative methods for furnishing services
- Selection of at least three firms considered to be the most highly qualified to provide the services required
- Contract negotiation with the most highly qualified firm to determine compensation that is fair and reasonable based on a clear understanding of the project scope, complexity, professional

nature, and estimated value of the services to be rendered.

- In the event that a contract cannot be negotiated with the most highly qualified firm, negotiation continues in order of qualification.

#### Standard "Boilerplate" Bidding/Contract Document Language

All SRF loan projects must include standard "boilerplate" language in their construction bidding/contract documents. This boilerplate language covers various topics, such as certain federal social and economic policy requirements, some standard environmental requirements, and state public works laws.

You will need to obtain the most recent boilerplate language guidance during project design. The boilerplate guidance is available at the DEQ SRF website noted above, or by contacting DEQ or WDO directly. The correct version of the boilerplate guidance to use depends on whether the loan is funded with first round or with second round revolved dollars. 1st round refers to the first time money has been loaned out after appropriation from the Environmental Protection Agency to the SRF. 2nd round refers to loans made with money that was previously loaned out by SRF and then was repaid, or "revolved," back to the SRF. Read the instructional language in the boilerplate guidance to assist you with incorporating the boilerplate language into your bidding/contract documents. Please direct boilerplate related questions to DEQ (both drinking water and clean water) or WDO (drinking water only).

There are additional links on the DEQ SRF website noted above that provide more specific guidance on the following boilerplate related topics:

- Davis-Bacon guidance
- Buy American/Use of American Iron and Steel boilerplate guidance
- Buy American/Use of American Iron and Steel EPA website

#### Cost Reimbursement

Loan recipients get reimbursed for project costs by submitting loan draft requests to the Office of State Lands and Investments. You only get reimbursed for costs once they are actually incurred. You must submit a loan draft request form and itemized documentation detailing all costs for which you seek reimbursement. Consultant invoices must be fully itemized for all charges, even if the contract was originally written on a lump sum basis. Project costs such as administration, planning and feasibility studies, and preliminary and final designs are typically reimbursable even if they are incurred prior to loan approval. However, construction costs are only reimbursable if construction begins after completion of the environmental review. Of course, you will also need to be complying with all other SRF program requirements in order to get reimbursement.

#### Permit to Construct

Most SRF projects require a DEQ permit to construct. Application forms and further information on permitting is available at <http://deq.wyoming.gov/wqd/permitting-2/>. On SRF projects, the permit to construct process is handled jointly by the appropriate DEQ district office and the DEQ SRF Program. They will review the construction drawings, specifications, design report, and bidding/contract documents as part of this permitting process. Please contact the DEQ SRF program with questions and to coordinate permit submittal and review before sending

in the permit to construct application materials. On DWSRF projects, you also need to send these documents to WDO.

#### Bidding, Contract Award, and Change Orders

You must get SRF approval before putting any SRF project out for bids, before awarding the contract, and before executing change orders or other changes in the project. Handle this through DEQ on CWSRF projects and through WDO on DWSRF projects.

#### Inspections by SRF Program

The SRF program will normally inspect each project at least once during construction. Some projects may be inspected more than once, depending on circumstances. Inspections are handled by DEQ and WDO. Make sure you keep DEQ (for CWSRF projects) and WDO (for DWSRF projects) updated on the status of construction so they can schedule an inspection appropriately. The inspections are mainly to check for compliance with SRF program requirements. Main topics looked at include

- project construction as proposed in loan application and permit application
- Davis-Bacon postings, payrolls, interviews, and related documents
- Buy American/Use of American Iron and Steel (if applicable)

If the project is found to be out of compliance, payments from SRF to the loan recipient will likely be put on hold until the project gets back into compliance. Please be aware that projects can potentially be inspected at any time, whether under construction or not.

#### Contact List

Please contact us with any questions you have about the SRF Program. You can also access the current contact list on the DEQ SRF website.

#### OSLI Contacts:

Beth Blackwell, Grants and Loans Program Manager  
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